

## **REMARKS**

Applicants request reconsideration of the application in view of this Amendment. Applicants also thank the Examiner for identifying claims 25 and 26 as allowable in the Office Action dated October 11, 2006.

The Examiner rejected claims 30, 32, 34 and 36 under 35 U.S.C. 102(b) as anticipated by Heck (U.S. Patent 5,584,869). Applicants respectfully traverse this rejection. Heck describes a system and method for failure detection in auditory response stimulators. Heck, however, does not teach monitoring a performance parameter of the hearing aid, determining a malfunction from a value of the parameter, and generating an indication of the malfunction concurrently with the receive and output step and without participation of an external device. In Heck, such external device is an alarm device that first receives a signal from a transmitter and then sounds an alarm in response to the signal. Heck does not teach every limitation of claims 30, 32, 34 or 36. Heck therefore cannot anticipate claims 30, 32, 34 or 36. Applicants thus submit that these claims are patentable over the prior art.

The Examiner rejected claims 35 and 36 under 35 U.S.C. 102(b) as anticipated by Fletcher (U.S. Patent 4,049,930). Applicants respectfully traverse this rejection. Fletcher discloses a hearing aid malfunction system. The Examiner suggests that Fletcher inherently discloses generating an indication of a malfunction based on a variation in the battery's current drain exceeding a threshold value. This rejection, however, reflects hindsight and overreaches because Fletcher and the pending application employ different metrics to achieve their results. Nowhere does Fletcher consider, expressly or impliedly, using a variation in a battery's current drain as a basis for generating an indication of a malfunction. Instead, Fletcher bases a malfunction indication on battery voltage (col. 5, lines 11-23). Fletcher thus fails to teach every limitation of claim 35. Consequently, Fletcher cannot anticipate claim 35. Applicants thus submit that claim 35 is patentable over the prior art and is in condition for allowance.

Pursuant to the Examiner's comments, claim 36 has been rewritten as new claim 37. Claim 37 depends from claim 35 and is in condition for allowance for the same reasons as provided for claim 35.

The Examiner rejected claims 1-7, 31 and 33 under 35 U.S.C. 103 as being unpatentable over Heck in view of Neilsen (U.S. Patent 6,879,692). Applicants respectfully traverse this rejection. The Heck reference is discussed above, and Neilsen describes a hearing aid with a self test capability. The combination of Heck and Neilsen, however, does not teach the limitations of claim 1. At a minimum, neither Heck nor Neilsen disclose a memory device coupled to the detection circuitry and operable to store the error message output generated by the detection circuitry. This element cannot be supplied by hindsight. Such memory device is simply absent from the disclosures of Heck and Neilsen. Furthermore, claim 1 recites generating a test tone directed into the ear canal and monitoring an inner microphone to detect the test tone. Nielsen's tone test is used to check only whether an outer microphone is faulty. Absent hindsight, the combination of Heck and Neilsen does not account for every limitation recited in claim 1. Finally, there is no suggestion within the Heck and Neilsen references to combine their teachings. Given these shortcomings, a person skilled in the art would not possess the claimed subject matter based on the Heck and Neilsen references. Heck and Neilsen thus cannot render claim 1 obvious. Applicants thus submit that claim 1 is patentable over the prior art and is in condition for allowance.

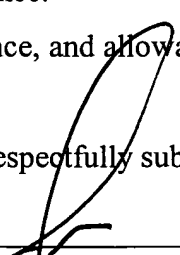
Claims 2-7 depend from claim 1 and are in condition for allowance for the reasons provided for claim 1.

Claims 31 and 33 depend from claim 30. As discussed above, Heck cannot anticipate claim 30 because Heck does not teach every limitation therein. Accordingly, claims 31 and 33 are in condition for allowance for the same reasons as provided for claim 30

The Examiner rejected claims 27 and 28 under 35 U.S.C. 103. Claim 27 is currently amended to depend from claim 25, which is in condition for allowance. Claims 28 and 29 depend from claim 27 and are likewise in condition for allowance.

The application is now in condition for allowance, and allowance is requested.

Respectfully submitted,

  
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Date: 11/29/06